

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SUZANNE MACOLINO,

Plaintiff,

-against-

TELEDATA COMMUNICATIONS, INC.,

Defendant.
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APPEARANCES:

FRANK & ASSOCIATES, P.C.
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Attorneys for Plaintiff
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Farmingdale, New York 11735

SCHUPBACH, WILLIAMS & PAVONE LLP
BY: Arthur C. Shupback, Esq.
Attorneys for Defendant
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WEXLER, District Judge:

This is a disability discrimination action in which the Plaintiff, Suzanne Macolino, alleges that her former employer, Defendant Teledata Communications, Inc., terminated her because they perceived her to be disabled, in violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12203 et seq. and the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law §§ 290 et seq. Defendant now moves for summary judgment, pursuant to

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MEMORANDUM AND ORDER

CV 13-4799 (LDW) (GRB)

Federal Rule of Civil Procedure 56 on the grounds that there is no genuine dispute as to any material fact herein. Defendant's motion is denied.

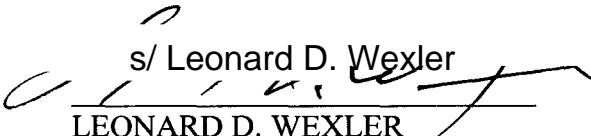
It is undisputed that Plaintiff is not substantially limited in her ability to perform any major life activities, as defined under the ADA. It is similarly undisputed that Plaintiff never requested a "reasonable accommodation" from Defendant, in accordance with the ADA.

However, the deposition testimony of both Plaintiff and her supervisor, Angela Tuck - submitted by the parties as evidence in connection with the within motion - demonstrates that there are issues of fact on which reasonable minds could differ as to whether Defendant's termination of Plaintiff's employment was based on a perception that she was disabled, as Plaintiff alleges. Such issues of fact preclude the entry of summary judgment.

Accordingly, Defendant's motion for summary judgment is denied. Jury selection remains scheduled for June 20, 2016 at 9:30 a.m.

SO ORDERED:

Dated: Central Islip, New York
November 24, 2015


s/ Leonard D. Wexler
LEONARD D. WEXLER
United States District Judge